

EXHIBIT A-6

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF NEW YORK

3 SUSANNA MIRKIN, et al., . Docket No.
4 Plaintiffs, . 1:18-CV-02949-ARR-JAM
5 v. . Brooklyn, New York
6 XOOM ENERGY, LLC, et al., . Friday, January 19, 2024
7 Defendants. . 11:00 a.m.
8

9
10 TRANSCRIPT OF STATUS CONFERENCE
11 BEFORE THE HONORABLE JOSEPH A. MARUTOLLO
12 UNITED STATES MAGISTRATE JUDGE

13 APPEARANCES:

14 For the Plaintiffs: Wittels McInturff Palikovic
15 STEVEN L. WITTELS, ESQ.
16 J. BURKETT MCINTURFF, III, ESQ.
17 ETHAN D. ROMAN, ESQ.
18 18 Half Mile Road
19 Armonk, New York 10504

20 For the Defendants: McDowell Hetherington LLP
21 MICHAEL D. MATTHEWS, JR., ESQ.
22 DIANE S. WIZIG, ESQ.
23 DAVID L. VILLARREAL, ESQ.
24 1001 Fannin Street
25 Suite 2400
Houston, Texas 77002
713-337-5580

Transcription Service: Superior Reporting Services LLC
P.O. Box 5032
Maryville, TN 37802
865-344-3150

Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

1 submit our in limine motion.

2 So that is something when my colleague Mr.
3 McInturff said we have to work hard at, this just not
4 submitting things to do that you will do. We have to be
5 giving the judge a package of exactly what motions he has to
6 decide, and they'll be briefed. So it's quite clear from Mr.
7 Matthews' description if he thinks the motion that he plans
8 that experts can't testify, and of course we disagree with
9 that. That'll be part of an in limine motion.

10 The second aspect of a motion to decertify the
11 class, I believe it's time barred, number one, but even if it
12 weren't, he's suggesting things about common proof that
13 really go to the class cert issue. The judge has already
14 articulated a request motion that there's ample ground for
15 the Plaintiffs to present common proof that the Defendants
16 violated the contract. And this is a simple breach of
17 contract claim, which his courts over the years -- all the
18 courts in the Second Circuit and elsewhere in the country
19 have said that breach of contract cases are ideally suited
20 for common resolution, as is our case.

21 And the question is, will the jury agree that the
22 Defendants breach the contract? And, Judge, if you read our
23 decision, it's articulated many reasons why she thinks
24 there's a question of fact as to that question, that the
25 (indiscernible) violated the contract by not using and not

1 date, that could complicate the process that Your Honor has
2 outlined.

3 So I just wanted to --

4 THE COURT: Understood.

5 MR. WITTELS: -- bring that to everyone's
6 attention.

7 THE COURT: Understood. All right. Well, thanks
8 very much. We'll set an order after this conference.

9 MR. MATTHEWS: Thank you, Your Honor.

10 MR. MCINTURFF: Thank you, Your Honor.

11 MR. WITTELS: Good day.

12 (Proceedings adjourned at 11:36 a.m.)
13

14 TRANSCRIBER'S CERTIFICATE

15 I certify that the foregoing is a correct
16 transcript from the electronic sound recording of the
17 proceedings in the above-entitled matter.
18

19 February 6, 2024

20 *Faith Vance*

21 Faith Vance

DATE

22 Legal Transcriber
23
24
25